



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF CAT)
COMMUNICATIONS INTERNATIONAL, INC. FOR)
APPROVAL OF A CERTIFICATE OF LOCAL AUTHORITY)
TO OPERATE AS A LIMITED FACILITIES-BASED)
CARRIER OF TELECOMMUNICATIONS SERVICES)
WITHIN NEW JERSEY)

ORDER

DOCKET NO. TE02120906

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N. J. S. A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated December 3, 2002, Cat Communications International, Inc. ("Petitioner" or "CCI") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide limited facilities-based local exchange telecommunications services throughout the State of New Jersey. Petitioner requests confidential treatment of the financial information attached to its Petition.¹

Cat Communications International, Inc. is a Virginia Corporation organized under the laws of the Commonwealth of Virginia. Petitioner's principal offices are located at 4142 Melrose Avenue NW, Roanoke, Virginia 24017.

Petitioner has submitted copies of its Certificate of Authority to operate in Virginia and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, CCI was formed to provide limited facilities-based local exchange telecommunications services. Petitioner states that it currently holds resale authority in New Jersey and serves over 10,000 residential customers. Petitioner states that it is licensed to provide resale service in the following jurisdictions: Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Kansas, Louisiana, Massachusetts, Michigan, Mississippi, Nevada, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and Washington, D. C. Petitioner is in the process of amending most of these certificates to provide Unbundled Network Elements Platform (UNE-P) facilities-based services.

¹ Pursuant to the Open Public Records Act N.J.S.A. 47:1A-1. et seq. and by letter from the Secretary, Petitioner has been notified that the Board shall handle such requests for confidential treatment in accordance with the Board's proposed regulations at N.J.A.C. 14:1-12, et seq.

Petitioner is currently operating in 29 states and District of Columbia. Petitioner states that it has or is negotiating interconnection agreements with the following Incumbent Local Exchange Carriers: Verizon, Bell South, Sprint, Alltel, CenturyTel, Ameritech, Southwestern Bell, Pacific Bell, Cincinnati Bell and Concord Tel Co. Petitioner has started negotiations with Qwest to enable CCI to provide service in the Midwest and Western states. Petitioner states that neither CCI, nor any person holding stock in or a managerial position with CCI, has ever filed bankruptcy, had any certificates denied or revoked in any jurisdiction, or had any judgments or liens levied against them. Petitioner states that it has been providing basic local residential telecommunications service since the fall of 1997.

Per the attached memorandum, during the period of January 1, 2002 through January 22, 2003, the Division of Customer Assistance received eighty-nine (89) customer complaints against CCI. Of these complaints, sixty-one (61) were service related, fifteen (15) were billing related and thirteen (13) were collection related. Additionally, the New Jersey Department of Consumer Affairs received a total of six (6) customer complaints against CCI, three (3) of which were filed during the year 2002.

In its Petition, Petitioner seeks authority to offer limited facilities-based standard residential and business local exchange telecommunications services including basic local service, optional calling features, directory and operator assistance and listing services to customers throughout New Jersey. Petitioner intends to provide local facilities-based service using Unbundled Network Elements and UNE-P arrangement with the local exchange carriers.

Petitioner requests a waiver of N. J. S. A. 48:3-7.8 and N. J. A. C. 14:1-4.3 which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts (USOA), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Roanoke, Virginia. Petitioner also states, upon written notice from the Board, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, CCI states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to CCI, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

Petitioner states it is a privately held corporation and maintains that its financial information is confidential and will therefore be submitted under seal.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed CCI's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner has demonstrated it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide limited facilities-based local exchange telecommunications services in New Jersey subject to approval of its tariff and submission of financial statements. The Board also FINDS that in accordance with N. J. S. A. 48:2-59 and 48:2-60 and N. J. S. A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is approved by the Board and the required financial statements i.e. balance sheet, income statement, statement of change in cash flow and statement of change in equity, have been provided.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N. J. S. A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N. J. S. A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive

these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 3/6/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)
KRISTI IZZO
SECRETARY